

Adopted

Rejected

COMMITTEE REPORT

YES: 8

NO: 2

MR. SPEAKER:

*Your Committee on Roads and Transportation, to which was referred Senate Bill 145, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 motor vehicles.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 9-13-2-22 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. "Chemical test"
- 8 means an analysis of a person's blood, breath, urine, or other bodily
- 9 substance for the determination of the presence of alcohol, a controlled
- 10 substance **or its metabolite**, or a drug **or its metabolite**.
- 11 SECTION 2. IC 9-26-1-0.5 IS ADDED TO THE INDIANA CODE
- 12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2006]: **Sec. 0.5. For purposes of this chapter, an accident**
- 14 **does not require proof of a collision between a driver's vehicle and**
- 15 **another vehicle or another person if the accident involves serious**
- 16 **bodily injury to or the death of a person.**

1 SECTION 3. IC 9-30-5-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) In addition to
3 a criminal penalty imposed for an offense under this chapter or
4 IC 14-15-8, the court shall, after reviewing the person's bureau driving
5 record and other relevant evidence, recommend the suspension of the
6 person's driving privileges for the fixed period of time specified under
7 this section.

8 (b) If the court finds that the person:

9 (1) does not have a previous conviction of operating a vehicle or
10 a motorboat while intoxicated; or

11 (2) has a previous conviction of operating a vehicle or a motorboat
12 while intoxicated that occurred at least ten (10) years before the
13 conviction under consideration by the court;

14 the court shall recommend the suspension of the person's driving
15 privileges for at least ninety (90) days but not more than two (2) years.

16 (c) If the court finds that the person has a previous conviction of
17 operating a vehicle or a motorboat while intoxicated and the previous
18 conviction occurred more than five (5) years but less than ten (10) years
19 before the conviction under consideration by the court, the court shall
20 recommend the suspension of the person's driving privileges for at least
21 one hundred eighty (180) days but not more than two (2) years. The
22 court may stay the execution of that part of the suspension that exceeds
23 the minimum period of suspension and grant the person probationary
24 driving privileges for a period of time equal to the length of the stay.

25 (d) If the court finds that the person has a previous conviction of
26 operating a vehicle or a motorboat while intoxicated and the previous
27 conviction occurred less than five (5) years before the conviction under
28 consideration by the court, the court shall recommend the suspension
29 of the person's driving privileges for at least one (1) year but not more
30 than two (2) years. The court may stay the execution of that part of the
31 suspension that exceeds the minimum period of suspension and grant
32 the person probationary driving privileges for a period of time equal to
33 the length of the stay. **If the court grants probationary driving**
34 **privileges under this subsection, the court shall order that the**
35 **probationary driving privileges include the requirement that the**
36 **person may not operate a motor vehicle unless the motor vehicle is**
37 **equipped with a functioning certified ignition interlock device**
38 **under IC 9-30-8.**

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months."

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 5. IC 9-30-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician, who:

- (1) obtains a blood, urine, or other bodily substance sample from a person, regardless of whether the sample is taken for diagnostic purposes or at the request of a law enforcement officer under this section; or

- (2) performs a chemical test on blood, urine, or other bodily substance obtained from a person;

shall deliver the sample or disclose the results of the test to a law enforcement officer who requests the sample or results as a part of a criminal investigation. Samples and test results shall be provided to a law enforcement officer even if the person has not consented to or otherwise authorized their release.

(b) A physician, a hospital, or an agent of a physician or hospital is not civilly or criminally liable for any of the following:

- (1) Disclosing test results in accordance with this section.
- (2) Delivering a blood, urine, or other bodily substance sample in accordance with this section.
- (3) Obtaining a blood, urine, or other bodily substance sample in accordance with this section.
- (4) Disclosing to the prosecuting attorney or the deputy prosecuting attorney for use at or testifying at the criminal trial of

the person as to facts observed or opinions formed.

(5) Failing to treat a person from whom a blood, urine, or other bodily substance sample is obtained at the request of a law enforcement officer if the person declines treatment.

(6) Injury to a person arising from the performance of duties in good faith under this section.

(c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:

(1) the privileges arising from a patient-physician relationship do not apply to the samples, test results, or testimony described in this section; and

(2) samples, test results, and testimony may be admitted in a proceeding in accordance with the applicable rules of evidence.

(d) The exceptions to the patient-physician relationship specified in subsection (c) do not affect those relationships in a proceeding not covered by this chapter, IC 9-30-5, or IC 9-30-9.

(e) The test results and samples obtained by a law enforcement officer under subsection (a) may be disclosed only to a prosecuting attorney or a deputy prosecuting attorney for use as evidence in a criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.

(f) This section does not require a physician or a person under the direction of a physician to perform a chemical test.

(g) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician shall obtain a blood, urine, or other bodily substance sample if the following exist:

(1) A law enforcement officer requests that the sample be obtained.

(2) The law enforcement officer has certified in writing the following:

(A) That the officer has probable cause to believe the person from whom the sample is to be obtained has violated IC 9-30-5.

~~(B) That the person from whom the sample is to be obtained has been transported to a hospital or other medical facility.~~

~~(C)~~ (B) That the person from whom the sample is to be obtained has been involved in a motor vehicle accident that resulted in the serious bodily injury or death of another.

~~(D)~~ (C) That the accident that caused the serious bodily injury

1 or death of another occurred not more than three (3) hours
2 before the time the sample is requested.

3 (3) Not more than the use of reasonable force is necessary to
4 obtain the sample.

5 (h) If the person:

6 (1) from whom the bodily substance sample is to be obtained
7 under this section does not consent; and

8 (2) resists the taking of a sample;

9 the law enforcement officer may use reasonable force to assist an
10 individual, who must be authorized under this section to obtain a
11 sample, in the taking of the sample.

12 (i) The person authorized under this section to obtain a bodily
13 substance sample shall take the sample in a medically accepted manner.

14 (j) A law enforcement officer may transport the person to a place
15 ~~other than a hospital~~ where the sample may be obtained by any of the
16 following persons who are trained in obtaining bodily substance
17 samples and who have been engaged to obtain samples under this
18 section:

19 (1) A physician holding an unlimited license to practice medicine
20 or osteopathy.

21 (2) A registered nurse.

22 (3) A licensed practical nurse.

23 (4) An emergency medical technician-basic advanced (as defined
24 in IC 16-18-2-112.5).

25 (5) An emergency medical technician-intermediate (as defined in
26 IC 16-18-2-112.7).

27 (6) A paramedic (as defined in IC 16-18-2-266).

28 **(7) A certified phlebotomist.**

29 SECTION 6. IC 9-30-6-9, AS AMENDED BY P.L.153-2005,
30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2006]: Sec. 9. (a) This section does not apply if an ignition
32 interlock device order is issued under section 8(d) of this chapter.

33 (b) If the affidavit under section 8(b) of this chapter states that a
34 person refused to submit to a chemical test, the bureau shall suspend the
35 driving privileges of the person:

36 (1) for:

37 **(A) one (1) year; or**

38 **(B) if the person has at least one (1) previous conviction for**

- 1 **operating while intoxicated, two (2) years; or**
 2 (2) until the suspension is ordered terminated under IC 9-30-5.
 3 (c) If the affidavit under section 8(b) of this chapter states that a
 4 chemical test resulted in prima facie evidence that a person was
 5 intoxicated, the bureau shall suspend the driving privileges of the
 6 person:
 7 (1) for one hundred eighty (180) days; or
 8 (2) until the bureau is notified by a court that the charges have
 9 been disposed of;
 10 whichever occurs first.
 11 (d) Whenever the bureau is required to suspend a person's driving
 12 privileges under this section, the bureau shall immediately do the
 13 following:
 14 (1) Mail a notice to the person's last known address that must state
 15 that the person's driving privileges will be suspended for a
 16 specified period, commencing:
 17 (A) five (5) days after the date of the notice; or
 18 (B) on the date the court enters an order recommending
 19 suspension of the person's driving privileges under section 8(c)
 20 of this chapter;
 21 whichever occurs first.
 22 (2) Notify the person of the right to a judicial review under section
 23 10 of this chapter.
 24 (e) Notwithstanding IC 4-21.5, an action that the bureau is required
 25 to take under this article is not subject to any administrative
 26 adjudication under IC 4-21.5.
 27 (f) If a person is granted probationary driving privileges under
 28 IC 9-30-5 and the bureau has not received the probable cause affidavit
 29 described in section 8(b) of this chapter, the bureau shall suspend the
 30 person's driving privileges for a period of thirty (30) days. After the
 31 thirty (30) day period has elapsed, the bureau shall, upon receiving a
 32 reinstatement fee, if applicable, from the person who was granted
 33 probationary driving privileges, issue the probationary license if the
 34 person otherwise qualifies for a license.
 35 (g) If the bureau receives an order granting probationary driving
 36 privileges to a person who has a prior conviction for operating while
 37 intoxicated, the bureau shall do the following:
 38 (1) Issue the person a probationary license and notify the

1 prosecuting attorney of the county from which the order was
 2 received that the person is not eligible for a probationary license.

3 (2) Send a certified copy of the person's driving record to the
 4 prosecuting attorney.

5 The prosecuting attorney shall, in accordance with IC 35-38-1-15,
 6 petition the court to correct the court's order. If the bureau does not
 7 receive a corrected order within sixty (60) days, the bureau shall notify
 8 the attorney general, who shall, in accordance with IC 35-38-1-15,
 9 petition the court to correct the court's order.

10 SECTION 7. IC 9-30-7-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person who
 12 refuses to submit to a portable breath test or chemical test offered under
 13 this chapter commits a Class C infraction. **However, the person**
 14 **commits a Class A infraction if the person has at least one (1)**
 15 **previous conviction for operating while intoxicated.**

16 (b) In addition to any other penalty imposed, the court ~~may~~ **shall**
 17 suspend the person's driving privileges: ~~for a period of not more than~~

18 **(1) for one (1) year; or**

19 **(2) if the person has at least one (1) previous conviction for**
 20 **operating while intoxicated, for two (2) years.**

21 SECTION 8. IC 9-30-8-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) If a court orders
 23 the installation of a certified ignition interlock device under IC 9-30-5
 24 on a motor vehicle that a person whose license is restricted owns or
 25 expects to operate, **except as provided in subsection (b),** the court
 26 shall set the time that the installation must remain in effect. However,
 27 the term may not exceed the maximum term of imprisonment the court
 28 could have imposed. The person shall pay the cost of installation.

29 **(b) If the court orders installation of a certified ignition interlock**
 30 **device under IC 9-30-5-10(d), the installation must**

1 **remain in effect for a period of six (6) months."**

2 Page 1, line 16, delete "[EFFECTIVE JULY 1, 2005]:" and insert
3 "[EFFECTIVE JULY 1, 2006]:".

4 Renumber all SECTIONS consecutively.
 (Reference is to SB 145 as printed January 27, 2006.)

and when so amended that said bill do pass.

Representative Duncan